CHAPTER cxxxiii.

An Act to authorise the Waterworks Commissioners of Kirkcaldy and Dysart to make and maintain additional works for providing an increased Water Supply and for other purposes. [20th July 1896.]

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WHEREAS by the Kirkcaldy and Dysart Waterworks Act 1867 (herein-after called "the Act of 1867") a body corporate was created under the name and style of the Waterworks Commissioners of Kirkcaldy and Dysart (herein-after called "the Commissioners") and provision was made for vesting in the Commissioners the waterworks of the trustees acting under the Act (Local) of the fifty-first year of the reign of His Majesty King George the Third mentioned in the Act of 1867 and the Commissioners were empowered to construct and acquire other works and to borrow thirty-eight thousand pounds and to levy rates and exercise other powers in relation to the supply of water to the parliamentary burghs of Kirkcaldy and Dysart and suburbs and places adjacent:

30 & 31 Vict. c. cxxxix.

And whereas by the Kirkcaldy and Dysart Waterworks Amendment Act 1870 (herein-after called "the Act of 1870") the Commissioners were authorised to borrow a further sum of fifteen thousand pounds for the purposes of the Act of 1867 and the Act of 1870 and the Act of 1867 was amended and further powers were conferred on the Commissioners:

33 & 34 Vict. c. lxvi.

And whereas by the Kirkcaldy Burgh and Harbour Act 1876 (herein-after called "the Act of 1876") the limits for the compulsory supply of water as defined in the Act of 1867 were extended so as to include such portions of the burgh of Kirkcaldy as extended by the Act of 1876 as were not within the said limits:

39 & 40 Vict. c. clxxix.

And whereas by the Kirkcaldy and Dysart Waterworks (Additional Powers) Act 1881 (herein-after called "the Act of 1881") the Commissioners were empowered to make and maintain an additional reservoir and other works for the purpose of providing an increased

44 & 45 Vict. c. lx.

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supply of water and to supply water to owners and occupiers of lands and heritages and to local boards of health and other public authorities within the county of Fife and within one mile of any part of the aqueducts conduits or lines of pipes authorised by the Act of 1881 and to borrow a further sum of forty thousand pounds:

49 & 50 Vict. c. xxxiii.

And whereas by the Kirkcaldy and Dysart Waterworks Act 1886 (herein-after called "the Act of 1886") the Commissioners were empowered to borrow an additional sum of twenty-five thousand pounds to enable them to complete the works authorised by the Act of 1881 and for the general purposes of their undertaking and the powers of the Commissioners for the supply of water in bulk conferred by the Act of 1881 were enlarged:

And whereas the Commissioners duly acquired the waterworks of the trustees before mentioned and constructed the reservoirs and other works authorised by the Act of 1867 and the Act of 1881:

And whereas the population and trade of Kirkcaldy and Dysart and places adjacent have of late years greatly increased and are still increasing and the present supply of water is becoming inadequate and it is expedient and would be for the public advantage that the Commissioners should be authorised to make and maintain the additional reservoirs and works herein-after described for the purpose of affording an increased supply of water:

And whereas it is expedient that the Commissioners should be authorised to supply water for providing motive power by hydraulic pressure or otherwise:

And whereas it is expedient that the procedure observed in connexion with the elections of elective Commissioners should in certain respects be altered and improved:

And whereas it is expedient that the Commissioners should be authorised to borrow additional money for the purposes of the works authorised by this Act and for the general purposes of their undertaking:

And whereas plans and sections showing the lines situations and levels of the works authorised by this Act and also books of reference to the said plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands houses and other property required or which may be taken for the purposes or under the powers of this Act were duly deposited in the offices at Cupar Kirkcaldy and Dunfermline respectively of the principal sheriff clerk of the county of Fife and in the office at Kinross of the principal sheriff clerk of the county of Kinross and those plans sections and books of reference are in

this Act respectively referred to as the deposited plans sections and books of reference:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

Short title.

1. This Act may be cited as the Kirkcaldy and Dysart Waterworks Act 1896.

Incorporation of general Acts.

2. The Lands Clauses Acts the Waterworks Clauses Act 1847 (except the provisions with respect to the communication pipes to be laid by the undertakers and also the provisions with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and also with the exception of clauses 68 70 and 72) the Waterworks Clauses Act 1863 and the clauses and provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof are (except where expressly varied by or inconsistent with this Act) incorporated with and form part of this Act Provided that the clauses and provisions of the said last-mentioned Act shall be read so as to apply only to the works (1) (2) (3) (6) and (12) by this Act authorised and the works immediately connected therewith.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction Provided that in the Acts wholly or partially incorporated with this Act for the purposes of this Act and also in this Act—

The expressions "the promoters of the undertaking" "the undertakers" and "the company" respectively mean the Commissioners;

The expression "the railway" means the works (1) (2) (3) (6) and (12) by this Act authorised and the expression "the centre of the railway" means the boundaries of those works;

The expression "the sheriff" means the sheriff of the county of Fife or any one of his substitutes;

The expression "the recited Acts" means the Act of 1867 the Act of 1870 sections 62 and 63 of the Act of 1876 the Act of 1881 and the Act of 1886.

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Power to make works and take lands.

4. Subject to the provisions of this Act the Commissioners may make and maintain in the lines or situations and according to the levels shown on the deposited plans and sections the several works shown on the deposited plans and herein-after described with all proper approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the said plans and described in the deposited books of reference as they require for the purposes of the said works and for any of the other purposes of this Act:

The works herein-before referred to and authorised by this Act are the following (that is to say):—

(1) A reservoir (herein-after called "Holl Reservoir") to be wholly situate in the parish of Leslie and county of Fife on portions of the lands of Holl and Strathendry and to be formed by an embankment across the stream called the Lothrie Burn;

(2) A cut spillwater or bye-wash to be wholly situate in the parish of Leslie and to commence and terminate in the said stream called Lothrie Burn:

(3) Filter beds with tanks and apparatus to be wholly situate in the parish of Leslie and to be constructed in a field on the lands of Strathendry number 291 on the Ordnance Survey map (scale $\frac{1}{2500}$ sheet XIX. 14) of the parish of Leslie:

(4) An aqueduct conduit or line of pipes partly covered and partly open to be wholly situate in the parish of Leslie and to commence in and out of the said intended Holl Reservoir and to terminate in the intended filter beds thirdly herein-before described:

(5) An aqueduct conduit or line of pipes to commence in the parish of Leslie in the intended filter beds thirdly herein-before described and to terminate in the parish of Dysart and county of Fife in the measuring tank connected with the distributing reservoir herein-after sixthly described:

(6) A distributing reservoir and measuring tank to be wholly situate in the parish of Dysart in a field on the farm of Carberry number 138 on the Ordnance Survey map (scale $\frac{1}{2500}$ sheet XXXV. 4) of the parish of Dysart:

(7) An aqueduct conduit or line of pipes to commence in the parish of Dysart in and out of the intended distributing reservoir sixthly herein-before described on the easterly side thereof and to terminate in the parish of Dysart and in the burgh of Kirkcaldy in the road leading from Pathhead past Overton Farm House by a junction with the distributing pipe of the Commissioners:

(8) An aqueduct conduit or line of pipes to commence in the parish of Dysart by a junction with the intended aqueduct conduit or line of pipes seventhly herein-before described and to terminate in the parish of Dysart and in the burgh of Kirkcaldy in the road leading from Dunnikier to Gallatown by a junction with the distributing pipe of the Commissioners:

(9) A diversion to be wholly situate in the parish of Leslie of the road leading from Leslie by Strathendry to the house called Lothrie Cottage in that parish belonging to the Commissioners:

(10) A road of access to be wholly situate in the parish of Leslie and to commence at a point in the road leading from Leslie by Strathendry to said Lothrie Cottage and to terminate at a point eight hundred and seven yards or thereabouts measured in a south-easterly direction from the north-east corner of that cottage:

(11) A weir dam or embankment to be wholly situate in the parish of Portmoak and county of Kinross in a field on the lands of East Feal number 23 on the Ordnance Survey map (scale $\frac{1}{2500}$ sheet XIX. 13) of the parish of Portmoak and to be formed across the stream called Tongue Burn:

(12) A reservoir (herein-after called "Arnot Reservoir") to be situate on a stream called Arnot Burn and on portions of the lands of Arnot and to be formed by an embankment to be wholly situate in the parish of Portmoak across the Arnot Burn as also a cut spillwater or bye-wash in connexion with Arnot Reservoir to commence in that reservoir and to terminate in the Arnot Burn also an aqueduct conduit or line of pipes to commence in and out of the said reservoir and to terminate in the Arnot Burn also a road of access in connexion with Arnot Reservoir to commence in the road leading from Greenhead of Arnot to West Feal and to terminate at a point three hundred and ninety-three yards or thereabouts measured in an easterly or north-easterly direction from the south-east corner of the Cottar Houses on and belonging to the farm of Greenhead of Arnot in the parish of Portmoak.

Power to erect maintain and improve works.

5. The Commissioners may subject to the provisions of this Act make lay erect and maintain all proper works and conveniences in connexion with the works before described including embankments dams weirs sluices sluice valves air valves scours pressure pipes catch-water drains culverts cuts aqueducts tunnels bridges roads of access cisterns filtering apparatus gauges main and distributing pipes houses buildings and all other works and conveniences whatsoever necessary or expedient for the purposes of the

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same and for carrying out the objects and purposes of the recited Acts and this Act or any of them as also the Commissioners may from time to time on or within any of their lands or on or over any lands on or over which they by agreement have or may acquire right so to do extend alter replace or enlarge their works mains and pipes and increase the number and size of the mains and pipes for conveying water from the reservoirs and other works of the Commissioners presently existing or to be constructed under the authority of this Act for the purposes of the recited Acts and this Act.

Construtcion of diversion of road.

6. The Commissioners shall construct the diversion of the road ninthly herein-before described as shown on the deposited plans and sections and such road shall be solidly and well constructed and in connexion with such road the Commissioners at their own expense shall construct all necessary side drains and culverts for carrying off the surface water and shall also properly fence off such road and on the completion of said new or diverted road to the satisfaction of the sheriff that portion of the existing road between the points of commencement and termination of the said intended diversion thereof herein-before described shall be and are hereby so far as the same is or shall be bounded on both sides by lands of the Commissioners absolutely vested in the Commissioners freed and discharged from all rights of way over the same.

Limits of lateral deviation.

7. In constructing the works by this Act authorised the Commissioners may deviate laterally from the lines thereof as shown on the deposited plans to the extent of the limits of lateral deviation shown thereon but not further except in the case of works to be made and maintained under the surface of the ground and in the case of such works with the consent of the owner of the ground through or in which the deviation is made Provided that the Commissioners shall not in the exercise of the powers of lateral deviation hereby conferred construct any embankment or wall of the reservoirs by this Act authorised of a greater height above the general surface of the ground than that shown on the deposited sections and three feet in addition.

Limits of vertical deviation.

8. In the construction of the works authorised by this Act the Commissioners may deviate vertically from the levels shown on the deposited sections in the case of the reservoirs to any extent not exceeding three feet and in the case of other works to any extent not exceeding five feet upwards and seven feet downwards but shall not lay above the surface of the ground any part of any pipe not so shown on the deposited sections or at a greater height above ground than is so shown except in the case of the pressure pipe on the aqueduct

conduit or line of pipes being work (5) by this Act authorised Provided that the embankment of the Arnot Reservoir shall be constructed so that the top-water level of the reservoir shall be at least two feet higher than the height thereof as shown on the deposited sections.

Power to agree for easements &c.

9. The Commissioners may subject to the provisions and for the purposes of this Act take by agreement and any person by the Lands Clauses Acts or otherwise enabled to sell lands may grant to them any easement servitude right or privilege (not being an easement servitude right or privilege of water in which others than the parties to the agreement have an interest) in over affecting or belonging to lands at a price or yearly rent feu duty or otherwise but in the case of a person not enabled otherwise than by the said Acts to sell lands then subject and according to the provisions relative to the taking of lands by agreement contained in the said Acts and for the purposes of this section any such easement servitude right or privilege shall be deemed to be lands within the meaning of those Acts.

Lands for extraordinary purposes.

10. The Commissioners may from time to time for the purposes of the recited Acts and this Act purchase by agreement in addition to the lands hereby authorised to be taken by compulsion any additional lands not exceeding in the whole twenty acres but the Commissioners shall not create or permit a nuisance on any such lands and such lands shall not be used for any building except in connexion with the water undertaking of the Commissioners.

Power to divert and impound water.

11. Subject to the provisions of this Act it shall be lawful for the Commissioners to take intercept collect and divert into and to impound and store up in the reservoirs and other works by this Act authorised or some of them the waters of the stream called or known as the Lothrie Burn and the tributaries and affluents thereof in so far as not already taken intercepted collected and diverted into and impounded and stored in the existing waterworks of the Commissioners and the waters of the stream called the Feal Burn and the tributaries and affluents thereof partly situate in the parish of Leslie and county of Fife and partly in the parish of Portmoak and county of Kinross and also the waters of the stream called Arnot Burn and of the stream or cut called Tongue Burn and the tributaries and affluents thereof respectively both situate in the parish of Portmoak and county of Kinross and by means of the existing works of the Commissioners and the works by this Act authorised or some of them to use and appropriate the said several waters for the purposes of the undertaking of the

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Commissioners and of the recited Acts and this Act and of providing compensation water to streams and to persons whose present supply of water may be affected by or in consequence of the works authorised by this Act or any of them Provided that the Commissioners shall not use take or convey any water from the Holl Reservoir or from the filters or other works in connexion with said Holl Reservoir until that reservoir and the Arnot Reservoir are completed and filled with water to such an extent as to allow the compensation water herein-after provided for being regularly given.

Compensation water and provision as to gauges.

12. The Commissioners shall cause to be discharged continuously from the Holl Reservoir into the channel of the stream called the Lothrie Burn not less than two hundred and sixty gallons of water per minute and from the Arnot Reservoir into the channel of the stream called Arnot Burn not less than two hundred and three gallons of water per minute for the supply of all mills manufactories works lands buildings and others on the said Lothrie Burn and also on the said Arnot Burn and on the streams into which the said Lothrie Burn and Arnot Burn respectively flow as full compensation to all such mills manufactories works lands buildings and others and to the owners lessees and occupiers thereof and all parties interested therein and in the waters of the said several streams for and in respect of the taking intercepting collecting diverting impounding and appropriating of the respective waters by this Act authorised to be taken intercepted collected diverted impounded and appropriated and the Commissioners shall erect and construct and for ever maintain proper and sufficient measuring gauges over or through which the said quantities of water respectively shall flow or be discharged and shall make and maintain such other works as shall be necessary for the regulation of the said supplies of water to the said streams and if any dispute arise as to the fulfilment by the Commissioners of the obligation imposed upon them by this section the same shall be determined by the sheriff and the decree of the sheriff after hearing the parties interested in such form as he shall deem expedient shall be final and not subject to review in any way Provided that the sheriff shall have power if he sees fit before proceeding to pronounce any decree to appoint some competent person to report to him as to the facts out of which such dispute has arisen.

For the protection of the owners of lands on which reservoirs are constructed.

13. The respective owners of the lands on which Holl Reservoir and Arnot Reservoir are to be constructed and their respective heirs successors and assigns in the said lands respectively shall have and enjoy with their families friends and servants the exclusive

right of fishing shooting sporting curling and skating in or over the said reservoirs so far as the same are to be constructed on the lands of such owners respectively and also of keeping and using boats on the said reservoirs but so that the exercise of such rights shall not injure the embankments pipes sluices or other works and it shall not be lawful for the Commissioners or any of their servants or any person acting under their authority by virtue of this Act or otherwise or any other person to enter upon any part of the estates of the said owners for any purpose or to exercise any such rights and privileges of fishing shooting sporting curling or skating or keeping or using boats on the said reservoirs as aforesaid save and except that the Commissioners or their engineer or persons under their or his control may enter upon the said lands and may keep and use a boat while examining and repairing the works of the Commissioners but not otherwise due compensation being always paid for any injury done thereby to the property of the said owners Provided always that nothing herein contained shall prevent the Commissioners from using and appropriating the waters of and in the said reservoirs for the purposes of the recited Acts and this Act or from causing the waters to be drawn or let off from the said reservoirs for the purposes of repairing or inspecting the state of such reservoirs or any of the dams banks tanks channels water-gates pipes or other works appertaining thereto or for the purpose of cleaning out such reservoirs or any part thereof but in any such case the Commissioners shall use all convenient speed in making such repairs or in executing such cleaning.

Payment of damages to the Rothes trustees.

14. The Commissioners shall be bound to make good to the trustees of the late Right Honourable Henrietta Anderson Morshead Waldegrave Leslie Countess of Rothes and their successors as proprietors of the Rothes Estates from time to time all damages which may be occasioned to them by reason or in consequence of any bursting or flood or escape of water from any reservoir aqueduct or pipe or other work connected therewith which may be constructed or laid by the Commissioners under the authority of this Act and the right to claim payment of such damages and expenses shall not be lessened by the powers conferred by this Act as regards inspection and seeing to the sufficiency of the works either during the construction or at the completion thereof or by anything that shall have been done under or in consequence of these powers.

Construction and inspection of reservoirs.

15. The Commissioners shall be bound to construct the reservoirs by this Act authorised and all the works connected therewith in a solid substantial secure and workmanlike manner and the trustees

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of the said Countess of Rothes and their successors shall be entitled at all reasonable times by themselves or other proper persons employed by them to inspect the embankments outlets sluices and all other works of and connected with the said reservoirs both during the construction and after the completion thereof and the said trustees of the said Countess of Rothes and their successors shall be entitled to have the said works inspected from time to time during the construction thereof and also at the completion thereof by a competent civil engineer to be mutually agreed upon between them and the Commissioners or failing such agreement to be appointed by the sheriff of the county of Fife on the application of either party to ascertain that the said works are being and have been so executed as to secure safety and the Commissioners shall be bound to execute the said works in such manner as such engineer shall direct so as to secure safety as aforesaid and to provide suitable waste weirs for the said Holl Reservoir and Arnot Reservoir and all the reasonable expenses attending such inspection or in reference thereto incurred by the said trustees of the said Countess of Rothes or their successors shall be paid by the Commissioners.

Inspection of gauges for compensation water.

16. The gauges for measuring the compensation water shall be under the care of the person employed by the Commissioners to take charge of the reservoirs and the said trustees of the said Countess of Rothes and their successors and their agents and the trustees acting under the Act of the seventh and eighth years of the reign of His Majesty King George the Fourth chapter one hundred and five and their successors and their agents or secretary shall at all times by night or day have access to such gauges and shall have power to examine and inspect the same and shall receive all requisite and proper facilities including the assistance of such person in charge for examining such gauges and testing the efficiency thereof and that without any expense to the party examining.

Settlement of claims of Rothes trustees for compensation and damages.

17. All claims of compensation for land taken or used and for laying pipes or constructing works within or upon the estate of the said trustees of the said Countess of Rothes and all claims of them or their successors for compensation or damages through flood or escape of water or flooding or bursting of any of the reservoirs authorised by this Act or works connected therewith or for altering enlarging or increasing the number of pipes or inspecting and repairing pipes to be laid by the Commissioners which shall from time to time be made by the said trustees of the said Countess of Rothes or their successors against the Commissioners and all

questions which may arise in relation thereto shall be settled by arbitration in manner provided by the Lands Clauses Consolidation (Scotland) Act 1845.

As to discharge of compensation water.

18. If at any time the Commissioners shall not cause to be discharged from the said Holl Reservoir into the channel of the Lothrie Burn as compensation water the full quantity of two hundred and sixty gallons per minute herein-before specified and from the said Arnot Reservoir into the channel of the said Arnot Burn as compensation water the full quantity of two hundred and three gallons per minute herein-before specified they shall be bound and obliged immediately on the requirement of the said trustees of the said Countess of Rothes or their successors or their agent to prevent any water passing into the pipes or other works for transmission to Kirkcaldy and Dysart or elsewhere unless and until the said prescribed discharge of compensation water is restored.

Saving rights as to compensation water &c. under recited Acts.

19. Nothing in this Act contained shall prejudice or affect the provisions of the recited Acts with respect to the compensation water to be discharged from the Balla Reservoir into the channel of the Lothrie Burn or with respect to the supply of water to the Mansion House and offices of Leslie Leslie Mains and the Home Farm of Leslie called South Parks and the supply of water to the said trustees of the said Countess of Rothes and their successors and to their tenants and feuars for domestic and other purposes and all the rights and interests of the said trustees of the said Countess of Rothes and their successors under the recited Acts are hereby saved and reserved.

Restriction on taking houses of labouring class.

20. The Commissioners shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

For the purposes of this section the expression "labouring class" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Period for compulsory purchase of lands.

21. The powers of the Commissioners for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Period for completion of works.

22. If the works authorised by this Act are not completed within ten years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Commissioners for executing any work not so completed or in relation thereto shall cease except as to so much thereof as is then completed but nothing herein contained shall restrict the Commissioners from maintaining using extending enlarging altering replacing relaying increasing or removing any of their machinery conduits aqueducts mains or pipes filters tanks and other works or improving their supply of water at any time and from time to time as occasion requires subject to the provisions of this Act.

As to aqueduct within Rothes Policies.

23. The Commissioners shall make the aqueduct conduit or line of pipes being work 5 by this Act authorised in so far as the same shall be situate within the Rothes Policies within the following periods from the date of the entrance of the Commissioners upon the said policies for the construction of the work within the said policies viz.:—

(A) So much of the work as will be situate within the Old Beach Avenue (being Numbers 122 123 and 124 of the parish of Leslie on the deposited plans) and for a distance of fifty yards north thereof and fifty yards south thereof within six weeks from the date of entry;

(B) So much of the work as will be situate between the east side of Balgeddie Farm and the south side of the Old Loan which bounds the north end of Caskieberran Farm that is to say between Numbers 110 of the parish of Leslie and 30 of the parish of Kinglassie both inclusive of the deposited plans within six months from the date of entry; and

(C) The remainder of such work within one year from the date of entry thereof:

And if the said work shall not be completed within the said periods the Commissioners shall pay to the Honourable George Waldegrave Leslie as liferenter of and his successors in the Rothes Estate one pound for every day beyond the said periods during which the same shall remain uncompleted.

Construction of bridge on Rothes Estate.

24. The Commissioners shall in substitution for the ancient bridge known as the Cow Brig on the Rothes Estate construct an iron girder or other form of iron or steel bridge to carry their water pipes over the River Leven with a carriage-way not less than

sixteen feet in width between the parapets and may raise an embankment at both ends of and may carry their existing and intended new mains and pipes across such new bridge Such new bridge embankments and works shall be constructed in all respects in accordance with plans to be previously submitted to and approved by James Wilson civil engineer Edinburgh whom failing by an engineer to be appointed for the purpose on the application of either party by the sheriff principal of the county of Fife and the new bridge embankments and works shall be carried out to the reasonable satisfaction of such engineer The Commissioners shall during the construction of the new bridge embankments and works be bound to maintain a temporary bridge or road across the River Leven until the new bridge embankments and works are completed and from and after the completion of the new bridge embankments and works the Commissioners shall be bound to maintain the same in good order and repair in all time coming.

Notice to be served before breaking up public roads and roads to be broken up under superintendence.

25. Before any public road shall be opened or broken up for the purposes of this Act by the Commissioners they shall give to the persons under whose control or management such road may be or their clerk or surveyor notice in writing of their intention to open or break up the same six days at least before the commencement of such operation and every such road shall be opened or broken up under the superintendence of the persons so having the control or management of the same as aforesaid or their officer if such persons or their officer choose to attend.

Roads broken up to be reinstated.

26. When the surface or soil of any public road shall be opened or broken up by the Commissioners they shall with all convenient speed complete the work on account of which the same shall be opened or broken up and carry away the rubbish occasioned thereby and shall in the meantime cause the place where such surface or soil shall be so opened or broken up to be fenced and guarded and set up and maintain upon or against the part of the said surface or soil so broken up or opened a sufficient light during every night during which such surface or soil shall be continued open or broken up and shall after executing the work for or applicable to the roads which have been opened or broken up keep the same in good repair for three months thereafter and for such further time if any not being more than twelve months in the whole as the soil so broken up shall continue to subside.

Penalty for failure to give notice and for

27. If the Commissioners fail to give notice of their intention to open or break up any public road as herein-before required or shall open or break up any such road without having given such

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delay in reinstating roads.

notice or shall make any delay in completing any such work or in carrying away the rubbish so occasioned as aforesaid or in causing to be fenced guarded or lighted the place where such surface shall have been opened or broken up they shall forfeit a sum not exceeding five pounds for every such offence and a further sum not exceeding five pounds for each day during which such delay shall continue.

For the protection of the North British Railway Company.

28. The following provisions for the protection of the North British Railway Company (herein-after called "the North British Company") shall (unless otherwise agreed between the Commissioners and the North British Company) apply and have effect (that is to say):—

(1) The aqueduct conduit or line of pipes where the same is intended to cross the Leslie Branch Railway and the Dunfermline and Thornton Branch Railway of the North British Company as shown on the deposited plans and sections shall be carried under both those branch railways by means of an arch or culvert to be constructed for such purpose if so required by an engineer of the North British Company in such position within the limits of deviation and at such depth under the said railways and in such manner as shall be reasonably determined by such engineer:

(2) All the works of the Commissioners which may in any way affect any railway of the North British Company or any bridge or other work or any lands or property belonging to that Company shall be executed at the expense of the Commissioners under the superintendence and to the reasonable satisfaction of the engineer of the North British Company and according to plans and specifications to be previously submitted to such engineer and reasonably approved by him in writing Provided that if such engineer shall not have expressed his approval or disapproval of the said plans and specifications within one month after the same shall have been submitted to him he shall be deemed to have approved thereof:

(3) The Commissioners shall not enter upon or interfere with any railway work or land or property belonging to the North British Company further or otherwise than may be necessary for constructing altering replacing maintaining or effecting repairs to any works of the Commissioners which may be laid under or across any such railway work land or property and they shall not alter or interfere with the lines or levels of any such railway or work and they shall only acquire a perpetual

easement or servitude through or in any land or property of the North British Company:

(4) The works shall be constructed altered replaced repaired and maintained so that the traffic upon the railway of the North British Company shall not in anywise be impeded or interfered with and such maintenance shall be effected under the superintendence and to the reasonable satisfaction of the engineer of the North British Company and in all things at the expense of the Commissioners:

(5) If by reason of the construction altering replacing repairing or maintaining of the works or any of them or the failure of any of the works or of the maintenance thereof the railway of the North British Company or the works land or property connected therewith shall be injured or the traffic thereon impeded the Commissioners shall compensate the North British Company for all costs to which that company may be put in repairing such damage:

(6) The Commissioners shall also indemnify the North British Company for any damage or compensation which may be recovered against them by reason of the interruption of the traffic on their railway or by reason of any accident on the said railway which interruption or accident shall have been occasioned by the acts or defaults of the Commissioners or any of their contractors or their respective servants or workmen and the amount of such damage or compensation shall be recoverable with full costs of suit from the Commissioners by all and the same means as a simple contract debt is recoverable:

(7) If any difference shall at any time arise between the Commissioners and the North British Company or their engineer with respect to any matter arising under this section such difference shall be referred to and determined by an engineer to be agreed on or failing agreement to be appointed by the sheriff on the application of either the Commissioners or the North British Company.

Power to provide water for hydraulic purposes.

29. The Commissioners may from time to time provide either from any of their existing or future sources of supply or from any other source water under pressure for the purpose of supplying motive power by hydraulic pressure for any purposes to which such power is or may be applicable they may use any of their existing buildings works machinery mains pipes and other apparatus for that purpose or erect lay down and maintain any other buildings works machinery mains pipes and apparatus which may be necessary on their own lands or on lands to be acquired by them by agreement

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with any person they may make agreements with any person or company for obtaining supplies of water for such purpose from any sources of water supply belonging to such person or company they may acquire and work any patents relating to the supply of water under pressure for the purpose of supplying motive power by hydraulic pressure but not so as to acquire any exclusive rights in such patents and they may supply any person or company with water under pressure for the purposes aforesaid at such rates and charges and upon such terms and conditions as may be agreed on between them and the person or company obtaining such supply.

New works to form part of Commissioners undertaking.

30. Subject to the provisions of this Act the works to be constructed under the authority of this Act shall for all purposes whatsoever be and be deemed part of the existing works of the Commissioners and shall be comprised in their undertaking.

As to future elections of Commissioners.

31. In all future elections of elective Commissioners the secretary to the Commissioners shall fourteen clear days at the least before the day of election prepare sign and publish such notice of the election as is herein-after prescribed:—

(1) The notice shall specify the number of Commissoners to be elected for each ward and the place or places and the day and hour of the election and shall also specify a place for the reception of the nomination papers herein-after mentioned and such notice shall be in the form contained in the schedule to this Act or to the like effect:

(2) After publication of the notice any two electors of the same ward may nominate for such ward any person qualified to be elected a Commissioner by sending to or delivering at the office of the secretary to the Commissioners not less than ten clear days before the day of the election a nomination paper subscribed by such two electors as aforesaid and stating the Christian name and surname with the place of abode and designation of each subscriber and of the person nominated and the secretary to the Commissioners shall send forthwith notice of such nomination to each person so nominated:

(3) No nomination papers shall be received after four o'clock in the afternoon of the last day upon which such paper may be received and no person shall be entitled to be elected a Commissioner unless he has been nominated within the time and in the manner aforesaid:

(4) The presiding officer of the ward for which such nomination is made shall decide whether the nominations are valid and his decision shall be final:

(5) Seven clear days at least before the day of election the names places of abode and designation of the several persons nominated as aforesaid shall be published by the secretary to the Commissioners:

(6) Not less than four clear days before the day of election any person nominated for election may be withdrawn by delivery at the office of the secretary to the Commissioners of a notice of such withdrawal addressed to the secretary to the Commissioners and signed by the person so nominated or by the two electors by whom he was nominated and such notice of withdrawal shall be delivered not later than four o'clock in the afternoon of the last day on which it may be received If the persons nominated for election for any ward and not withdrawn as aforesaid shall equal but not exceed the number of Commissioners to be elected for such ward the persons so nominated shall be deemed to be elected on the day of the election and the secretary to the Commissioners shall on that day publish a list of the names with the places of abode and designations of the persons so elected and such publication shall be conclusive evidence of such election:

(7) If the persons nominated for election in any ward and not withdrawn as aforesaid shall be less than the number to be elected the presiding officer at such election shall on the day of the election declare such persons so nominated to be duly elected and the secretary to the Commissioners shall publish a list of the names with the places of abode and designations of the persons so elected and such publication shall be conclusive evidence of such election and the Commissioners shall within fourteen clear days after the day of election nominate and appoint as many persons duly qualified to be Commissioners as shall be necessary to make up the number of Commissioners requiring to be elected:

(8) If after the time herein-before limited for the withdrawal of any person nominated as a Commissioner more persons so nominated remain for any ward than there are Commissioners to be elected for such ward the secretary to the Commissioners shall forthwith publish the names places of abode and designations of the several persons so nominated and shall give notice that a poll will be taken at the place or places and on the day and at the hours fixed for the election:

(9) Every publication required under this section shall be made in such manner as the Commissioners may from time to time direct.

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As to borrowing powers in former Acts.

32. The powers to borrow and raise money and to grant security therefor contained in the Act of 1867 the Act of 1870 the Act of 1881 and the Act of 1886 shall and may be exercised by the Commissioners for the purposes of this Act as well as for the purposes of the said Acts and the money so borrowed or raised may be applied for the said purposes so far as the same are purposes to which capital is properly applicable.

Power to borrow additional money.

33. In addition to the moneys which the Commissioners are authorised to borrow under the Act of 1867 the Act of 1870 the Act of 1881 and the Act of 1886 the Commissioners may from time to time under the authority of this Act borrow any sums not exceeding in the whole one hundred thousand pounds and may make and grant mortgages of the several rates and charges leviable by them under the provisions of the recited Acts and this Act in security of the payment of the money so borrowed and interest thereon and if after having borrowed the said sum or any part thereof the Commissioners pay off the same otherwise than by means of the sinking fund herein-after mentioned it shall be lawful for them again to borrow the amount so paid off and so from time to time.

Commissioners may borrow on cash account.

34. The Commissioners may accept and take from any bank or banking company credit on a cash account to be opened and kept with such bank or banking company in the name of the Commissioners according to the usage of bankers in Scotland to the extent of the sum which the Commissioners are authorised to borrow under the authority of this Act or any part thereof and may make and grant mortgages of the several rates and charges leviable by them under the recited Acts and this Act in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon Provided always that the whole principal sums due and owing by the Commissioners on such cash account and for money borrowed by them on mortgage as aforesaid shall not when taken together exceed the sums by the Acts of 1867 1870 1881 1886 and this Act authorised to be borrowed.

Debt may be funded.

35. The Commissioners may fund the whole or any part of the sums to be raised on mortgage under the authority of this Act under the powers and provisions with the rights and privileges and subject to the restrictions and conditions which are contained in sections ninety-five to ninety-nine of the Act of 1867.

Provisions as to mort-

36. Sections ninety-one ninety-two ninety-four and one hundred and three of the Act of 1867 shall be and are hereby made applicable

to the money to be borrowed and the mortgages interest warrants drafts or orders and discharges to be granted under the authority of this Act in the same manner as if the money to be borrowed and the mortgages interest warrants drafts or orders and discharges to be granted under the authority of this Act had been borrowed or granted under the authority of the Act of 1867. A.D. 1896. gages &c. in Act of 1867 to be applicable to this Act.

37. Sections one hundred one hundred and one and one hundred and two of the Act of 1867 shall be and are hereby made applicable to the money to be borrowed or raised and to the mortgages and certificates of funded debt to be granted and issued under the authority of this Act in the same manner as if the money to be borrowed or raised under the authority of this Act had been borrowed or raised under the authority of the Act of 1867. Provisions as to judicial factor &c. to be applicable to this Act.

38. The several sums borrowed or raised by the Commissioners on mortgage or by means of the funded debt under the authority of this Act shall be applied for the purposes of the recited Acts and of this Act and to the other purposes of their undertaking to which capital is properly applicable and to no other purpose whatsoever Provided that with the exception of the cost of enlarging or increasing the number of mains and pipes and of extending the works mains and pipes the several sums borrowed or raised by the Commissioners under the authority of this Act shall not be applied to any of the purposes to which the rates and charges by the recited Acts and this Act authorised to be levied are by this Act specially made applicable. Application of money borrowed or raised.

39. All mortgages certificates of funded debt and securities granted by the Commissioners in pursuance of the powers of the Act of 1867 the Act of 1870 the Act of 1881 and the Act of 1886 before the passing of this Act and which shall be subsisting at the passing of this Act shall during the continuance of such mortgages funded debt and securities have priority over any mortgages funded debt or securities to be granted or created by them under this Act and all such last-mentioned mortgages funded debt and securities shall rank together pari passu without any preference or priority the one over the other. Priority of existing mortgages and securities.

40. Any person lending or paying money under this Act to the Commissioners shall not be bound to inquire as to the observance by the Commissioners of any of the provisions of the recited Acts or this Act or be bound to see to the application or be answerable for any loss or non-application of such money or of any part theerof. Protection of lenders from inquiry.

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Annual estimate to include interest and annuity on money borrowed or funded.

41. In estimating and fixing once in every year the amount of money necessary to be levied for the purposes mentioned in section sixty-seven of the Act of 1867 the Commissioners shall include the interest on the money and annuity of funded debt that may be borrowed or created under the authority of this Act and the payment to the sinking fund and the expense of maintaining and managing the additional works authorised by this Act and all other annual expenditure arising out of the exercise of the powers by this Act conferred or consequent on the construction maintenance and use of the said additional works and the rates by the recited Acts and this Act authorised shall be assessed and levied to such an amount as will be sufficient to meet the same in addition to the purposes mentioned in the said section of the Act of 1867 and the amount so levied shall be applied in payment thereof.

Sinking fund.

42. The Commissioners may and they are hereby required after the fifteenth day of May in the year one thousand nine hundred and six to set apart as a sinking fund a sum not less than one pound per centum per annum on the amount which may have been from time to time borrowed under the powers of this Act as from the date of each respective borrowing and such sinking fund shall be accumulated with interest and shall be from time to time applicable to the redemption of mortgages and of the annuity of funded debt and to no other purposes whatsoever Provided that no part of the said sinking fund shall be applied in the redemption of such annuity until the whole mortgages of the Commissioners granted under the authority of this Act shall have been redeemed Provided further that whenever any mortgage or funded debt granted or issued under the authority of this Act shall have been paid off or redeemed out of such sinking fund the Commissioners shall in each year until the whole of the moneys borrowed or raised under the authority of this Act shall have been paid off and redeemed pay into the sinking fund the amount of interest and annuity of funded debt which would have been payable on such mortgage or mortgages or funded debt if the same had not been paid off or redeemed.

Annual return to Secretary for Scotland with respect to sinking fund.

43. The treasurer of the Commissioners shall within two months after the expiration of each financial year during which any sum is by this Act required to be set apart as a sinking fund transmit to the Secretary for Scotland a return in such form as may be prescribed by the Secretary for Scotland and verified by statutory declaration if so required by him showing the amount which has been so set apart in respect of that year and also showing the purposes to which any portion of such sinking fund and the interest thereof have been applied during the same period and the total amount remaining to

the credit of such fund at the end of the same period and in the event of any wilful default in making such return the treasurer of the Commissioners shall be liable to a penalty not exceeding twenty pounds recoverable by the Secretary for Scotland as a debt to the Crown is recoverable If it appear to the Secretary for Scotland by such return or otherwise that the Commissioners have failed to set apart the sum required by this Act as a sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Secretary for Scotland may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart as part of the sinking fund and such order shall be enforceable by decree of either division of the Inner House of the Court of Session in Scotland pronounced in a summary application presented for that purpose.

Application of rates and charges.

44. The rates and charges levied or leviable under the authority of the recited Acts and this Act and the other income of the Commissioners whether arising under the recited Acts or this Act shall be applied in the following order of priority (that is to say):—

First. In defraying the expenses of management and maintenance of the undertaking of the Commissioners comprehending the property and works belonging to and vested in them at the passing of this Act and the works and lands which may be constructed and acquired under the authority of this Act including the salaries and other payments to the officers and servants of the Commissioners and the annual costs charges and expenses of providing and supplying water and in payment of the feu duties or ground annuals exigible in respect of any lands streams or property forming part of the said undertaking;

Second. In payment of the interest of money which may have been or may be borrowed and of the annuity on the funded debt which may have been or may be issued under the authority of the Act of 1867 the Act of 1870 the Act of 1881 the Act of 1886 and this Act or under any of them;

Third. In payment of such portion of the cost of enlarging and increasing the number of mains and pipes and of extending the works mains and pipes from time to time as the Commissioners shall think it reasonable to charge against the revenue for the year and of any other necessary annual expenditure; and

Lastly. In payment of the sums by the Act of 1867 the Act of 1870 the Act of 1881 the Act of 1886 and this Act directed to be set apart as a sinking fund.

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Costs of Act.

45. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Commissioners out of the rates to be levied by them and the other revenues of the Commissioners or the moneys borrowed or to be borrowed on the security of the same or which shall be or come into the hands of the Commissioners.

The SCHEDULE referred to in the foregoing Act.

KIRKCALDY AND DYSART WATERWORKS COMMISSIONERS.

Election of Commissioners.

18 .

Notice is hereby given that the election of two Commissioners for each of the three wards after mentioned will take place on Tuesday the day of November 18 within the places and between the hours following viz. :—

For the First Ward embracing the Royal Burgh of Kirkcaldy and such part of the parish of Kirkcaldy as is situate within the limits for compulsory supply within between the hours of and

For the Second Ward embracing such parts of the parishes of Abbotshall and Kinghorn as are situate within the said limits within between the hours of and

For the Third Ward embracing the Royal Burgh of Dysart and such part of the parish of Dysart as is situate within the said limits within between the hours of and

Every person to be proposed for election as a Commissioner must be nominated in writing by two electors of the ward for which he is so proposed and every nomination paper must be delivered at the under-mentioned office not later than 4 o'clock on the day of next.

Any person so nominated may be withdrawn by notice of withdrawal in writing signed by the person so nominated or by the two electors by whom he was nominated and delivered at the under-mentioned office not later than 4 o'clock on the day of next.

Every person rated under the Act for the "domestic water rate" and the "public water rate" or either of them in respect of any house or other premises of a yearly rent or value of £8 at the least and who shall have paid prior to the

date of such election all rates due and payable by him is qualified to be elected a Commissioner.

Every person rated for said rates or either of them in respect of any house or other premises exceeding the yearly rent or value of £4 and who shall have paid prior to the date of such election all rates due and payable by him is qualified to vote in the election of Commissioners.

Every person shall vote in that ward only wherein the property or part thereof in respect of which his name appears in the rate book is situate and although rated in more than one ward he can only vote in one ward.

Office of the Secretary to the Commissioners.

(Here set forth address of office.)

(Date)

Secretary to the Commissioners.

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